

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
The Development of Operational,)
Technical and Spectrum Requirements)
For Meeting Federal, State and Local)
Public Safety Agency Communication)
Requirements Through the Year 2010)

WT Docket No. 96-86

Establishment of Rules and Requirements)
for Priority Access Service)

REPLY COMMENTS OF THE MANAGER, NATIONAL COMMUNICATIONS SYSTEM

The Secretary of Defense hereby files these Reply Comments as Executive Agent of the National Communications System (NCS). The NCS filed comments herein primarily addressing the priority access service portion of this docket, and will limit its replies to the same issue.

As expected, the filed comments reflect views on priority access that to say the least, vary.

Priority Levels

The NCS believed that a formal prioritization structure was necessary rather than an informal, more flexible one. This is to ensure nationwide compatibility of service. GTE Service Corporation (GTE) agrees. "(U)nless (priority access) is standardized, it again sets up the possibility for piecemeal deployment of priority access capabilities, as well as the possibility for incompatibilities and lack of interoperability and standard processes among deployed systems in different areas/agencies."¹ Southwestern Bell Mobile Systems, Inc. also agrees. "To achieve

¹GTE Comments, page 5

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nationwide uniformity and consistency ... the Commission should prescribe rules that govern the prioritization structure.”² Even Bell Atlantic Mobile, Inc., (BAM) while generally expressing the view that priority access is not needed, says “(R)ules would be pointless unless they are generic and consistent on a national basis, advising carriers and agencies as to who has priority and in what order.”³ Having the Commission adopt uniform national rules would also likely help shield service providers from Section 202(a) liability, discussed below. Not knowing what types of services it might be sanctioning would make it difficult for the Commission to issue some sort of blanket protection against liability, should it choose to do so. Likewise, the absence of Commission guidance would likely make it more difficult for a district court of the United States to decide a case of liability, should the complainant take that route.

Spectrum Capacity of Commercial Carriers Networks

The issue is the need for priority access in light of the reallocation of additional spectrum for public safety purposes. Certainly the knee jerk reaction is to say that the increased spectrum for public safety radio will decrease public safety radio’s use of commercial wireless spectrum to carry out its responsibilities. The truth is however that nobody knows. Moreover, it should be noted that NS/EP personnel who could possibly qualify for priority access are in many cases not qualified for public safety radio spectrum.⁴ NS/EP is not synonymous with Commission-

² Southwestern Bell Mobile Comments, page 4

³ Bell Atlantic Mobile Comments, page 10

⁴ “Because the Commission excludes from the public safety spectrum those organizations “the sole or principal purpose of which is *not* to protect the safety of life, health or property: and providers of commercially available public safety services” it should ensure that such entities, e.g., the American Automobile Association, public utility and power companies, have the ability to contract for priority access service with commercial operators.” Nextel Comments, page 8. Footnotes omitted.

defined public safety. Expectations that additional spectrum will provide relief from congestion to entities not eligible for public safety radio are therefore extremely speculative.

GTE states that "...although the public safety rulemaking will reduce the need for priority access, it will not likely eliminate it."⁵ Despite BAM's assertions that the examples cited by the NCS in its Petition for Rulemaking as instances where priority access would have been helpful are "...only a few situations where one local cellular network was briefly overloaded"⁶, the comments of the American Water Works cite additional examples.⁷ If there were no problems gaining access during emergency conditions, there would have been no reason for the parties who developed the concept of priority access service (including BAM) to have devoted the large amount of time and effort to do so. There would be no reason for the State of Oregon to have passed a statute requiring priority access.

As stated in its comments, the NCS knows of no plan by emergency responders to discontinue use of cellular telephones even with additional spectrum available for other services. The City of Long Beach, CA says: "We have every intention of continuing to use cellular/PCS on a routine basis, as well as during emergencies, but only to supplement the capabilities of our own systems."⁸ When competition for access results in delays, the NS/EP-responsible person

⁵GTE Comments, page 4.

⁶BAM Comments, page 3

⁷American Water Works Comments, page 3

⁸City of Long Beach Comments, page 6.

should have priority.⁹

Carrier Liability under Section 202(a)

In a rare instance of unanimity in the comments, all who address the issue suggest some sort of Commission relief from potential liability. The NCS agrees and precedent shows the Commission has ample authority to do so.

Voluntary or Mandatory Provision of Priority Access

No comments suggest that priority access should be made mandatory. All who address the issue say it should be voluntary. The Commission can decide. As to funding, the NCS continues to believe that the cost-causer should pay the cost, as with the Telecommunications Services Priority system.

Other Issues

The GTE comments propose that priority access be associated with the separate NCS priority communications program known as the Government Emergency Telecommunications Service (GETS). Although there is no question that cellular priority would work hand-in-hand with GETS to ensue end-to-end priority, at this time the NCS is not amenable to expanding existing contracts considering the serious budgetary implications and potential program disruptions.

CONCLUSION

There is no firm basis to conclude that the allocation of additional spectrum for public

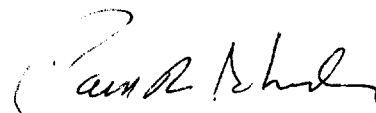
⁹In addition to those previously identified, the following entities recognize the value of priority access: American Red Cross, APCO, BellSouth, UTC, Florida Power and Light Company, NENA, and the New York State Police

safety radio will eliminate the need for priority access to wireless services for NS/EP qualified personnel. Mandatory vs. voluntary provision of the service, how it is paid for, and what method to utilize to shield against liability are decisions to be made by the Commission, but the need for priority access is real.

Respectfully submitted,



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